

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

RICHARD LYNN HENSLEY)
V.) No. 2:01-CV-142
ANTHONY MILES, *ET AL.*) *District Judge Greer*
) *Magistrate Judge Inman*

SUPPLEMENTAL REPORT AND RECOMMENDATION

The Magistrate Judge earlier filed a Report and Recommendation, in which it was found and recommended that the policy of insurance issued by Legion Insurance Company afforded uninsured motorist coverage to the plaintiff Henley.

The Magistrate Judge deferred any final report and recommendation, however, because of the perceived need to join the North Carolina Guaranty Fund as a party to this suit. That need no longer exists by virtue of a motion filed by the Arkansas Property & Casualty Guaranty Fund that it be allowed to withdraw any defense that the North Carolina fund was the proper fund against which plaintiff must pursue his claim in the event the Legion policy afforded coverage.

Therefore, the earlier Report and Recommendation is now "final" in the sense that there is nothing further upon which the Magistrate Judge should rule. By way of summation, for the reasons stated in the previous Report and Recommendation, it is respectfully reported that the policy of insurance issued by Legion Insurance Company afforded uninsured/under insured motorist coverage to the plaintiff Hensley, up to the applicable policy limits for that coverage. Therefore, it is recommended that the plaintiff Hensley's Motion for Summary

Judgment [Doc. 139] be GRANTED and the Motion for Summary Judgment filed by the Arkansas Property & Casualty Guaranty Fund [Doc. 142] be DENIED to the extent that the Legion policy affords coverage to the plaintiff.

Any objections to this report and recommendation must be filed within ten (10) days of its service or further appeal will be waived. 28 U.S.C. § 636(b)(1)(B) and *©. United States v. Walters*, 638 F.2d 947-950 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985). The objecting party shall procure and file simultaneously with the objections a transcript of any testimony before the Magistrate Judge. If a transcript is not filed simultaneously with the objections, the party filing the objections shall either (1) file a declaration that the transcript was ordered before the objections were filed and the date on which the party expects the transcript to be filed, **or** (2) affirmatively state that a transcript of the testimony presented to the Magistrate Judge is not needed for resolution of the objections. If a party files objections to this report and recommendation, the attorney for that party shall provide a copy of such objections to the opposing counsel on the same day the objections are filed, either by hand-delivery or facsimile transmission. The opposing counsel shall file his/her response to the objections within five business days of the date the objections are filed.

Respectfully submitted,

s/ Dennis H. Inman
United States Magistrate Judge